

BYLAWS OF NEWPORT BEACH RESTAURANT ASSOCIATION

ARTICLE I

Identification

1.01 Name of the Corporation.

The name of the corporation is NEWPORT BEACH RESTAURANT ASSOCIATION.

1.02 Principal Office.

The principal office of NEWPORT BEACH RESTAURANT ASSOCIATION, shall be located in Newport Beach, California. The Board of Directors (Board) may change the principal office from one location to another. Any change of location of the principal office shall be noted by the Secretary on these bylaws opposite this section, or this section may be amended to state the new location.

1.03 Purpose.

This corporation has been formed to promote the commercial welfare of restaurants and the restaurant business of the area in the City of Newport Beach, California. The corporation shall be non-partisan, non-sectional and non-sectarian.

1.04 Nonprofit Corporation.

NEWPORT BEACH RESTAURANT ASSOCIATION will be conducted as a nonprofit mutual benefit corporation, and no part of fees paid into NEWPORT BEACH RESTAURANT ASSOCIATION, if any, shall inure to the benefit of any member of NEWPORT BEACH RESTAURANT ASSOCIATION or any other person or entity, other than (a) by a rebate of excess membership dues, fees or assessments, or (b) upon dissolution and termination of the activities of NEWPORT BEACH RESTAURANT ASSOCIATION.

ARTICLE II

Membership, Dues and Meetings

2.01 Qualifications and Rights of Membership.

(a) Classes and Qualifications. The corporation shall have one class of members, designated as a contributing member. Any restaurant owner or employee or other person dedicated to the purposes of this corporation shall be eligible for membership on approval by the Board and on timely payment of such special fees and assessments as the Board may fix from time to time.

(b) Voting Members. Participating members shall have the right to vote, as set forth in these Bylaws on the election of directors, on the disposition of all or substantially all of the corporation's assets, on any merger and its principal terms and any amendment to

those terms, and on any election to dissolve the corporation. In addition, those members shall have all rights that may be added by vote of the membership at its annual meetings.

(c) Other Entities Affiliated with the Corporation. The corporation may refer to other entities affiliated with it as "members" even if those entities are not members as set forth in Section 2.01(a), of these Bylaws, but no such reference shall give any entity any membership rights as set forth in Section 2.01(b) unless that entity shall have qualified for membership under Section 2.01(a) of these Bylaws. For purposes of Identification these affiliates may be referred to as "supporting members".

2.02 Dues, Fees and Assessments.

Each member shall pay, through annual city license fees, and within the time and conditions set by the Board, all special fees and assessments in amounts to be fixed from time to time by the Board. Dues will be a function of the members annual city license assessment.

2.03 Good Standing.

Those members who have paid the required city license fees and any additional fees and assessments in accordance with these Bylaws and who are not suspended shall be members in good standing and have all the rights, privileges and services of membership.

2.04 Termination and Suspension of Membership.

(a) Causes of Termination. A membership shall terminate on the occurrence of any of the following events:

- (1) Resignation of the member, on reasonable association; or
- (2) Expiration of the membership period, unless the membership is renewed on the renewal terms fixed by the Board; or
- (3) Failure to pay city assessed license fees and any additional fees or assessments as set by the Board within the time period designated by the Board; or
- (4) Occurrence of any event that renders the member ineligible for membership, or failure to satisfy membership qualifications; or
- (5) Expulsion of the member under Section 2.04(c) of these bylaws based on the good faith determination by the Board that the member has failed in a material and serious degree to observe the rules of conduct of the corporation, or has engaged in conduct materially and seriously prejudicial to the purposes and interests of the corporation.

(b) Suspension of Membership A member may be suspended, under Section 2.05 of these Bylaws, based on the good faith determination of the Board, that the member has failed in a material and serious degree to observe the corporations rules of conduct, or has engaged in conduct materially and seriously prejudicial to the purposes and interests of the corporation. A member who is suspended shall not be entitled to any rights, privileges or services of membership and shall be barred from participation in all membership meetings.

(c) Procedure for Expulsion or Suspension If grounds appear to exist for expulsion or suspension of a member under Sections 2.049-(a) or 2.04(b) of these bylaws, the procedure set forth shall be followed:

(1) The member shall be given 15 days prior notice of the proposed expulsion or suspension and the reasons for the proposed expulsion or suspension. Notice shall be give by any method reasonably calculated to provide actual notice. Any notice given by mail shall be sent by first-class or registered mail to the member's last address as shown on the corporation's records.

(2) The member shall be given an opportunity to be heard, either orally or in writing, at least five days before the effective date of the proposed expulsion or suspension. The hearing shall be held, or the written statement considered by the Board to determine whether the expulsion or suspension should take place.

(3) The Board shall decide whether or not the member should be suspended, expelled or sanctioned in some other way. The decision of the Board shall be final.

2.05 Meetings of Members.

(a) Place of Meeting. Meetings of members shall be held at any place within the County of Orange, State of California which has been designated by the Board. In the absence of any such designation, members meetings shall be held at the corporation's principal office.

(b) Annual Meeting. An annual meeting of members shall be held during the first quarter of the fiscal year, the date, time and location to be determined by the Board, and members notified as provided in Section 205(d) of these Bylaws. At this meeting, directors shall be elected and any other proper business may be transacted. Each Annual Meeting shall be in compliance with the "Open Meeting" provisions of the "Brown Act" codified in the §54950 of the Government Code of the State of California.

(c) Special Meetings. A special meeting of the members, for any purpose or purposes whatsoever, may be called at any time by the Board, the Chairman of the Board, if any, or by petition to the Board by a majority of the members. All Special Meetings shall be

in compliance with the "Open Meeting" provisions of the "Brown Act" codified in §54950 of the Government Code of the State of California.

(d) Notice to Members. Whenever members are required or permitted to take any action at a meeting, a written notice of the Meeting shall be given not less than ten (10) nor more than thirty (30) days before the date of the meeting to each voting member who, on the date for notice of the meeting, is entitled to vote at the meeting. Such notice shall state the date, place and time of the meeting and the general nature of the business to be transacted, but any proper matter may be presented at the meeting for such action and shall be in compliance with the "Open Meeting" provisions of the "Brown Act" codified in §54950 of the Government Code of the State of California.

(e) Quorum. The presence in person or by proxy of a majority of the members entitled to vote at any meeting shall constitute a quorum for the transaction of business, except to adjourn as hereinafter provided. If a quorum is present, the affirmative vote of a majority of the voting power represented at the meeting, entitled to vote and voting on any matter shall be the act of the members. The members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough members to leave less than a quorum, if any action taken is approved by at least a majority of the members required to constitute a quorum.

(f) Adjourned Meetings. Any members' meeting, whether or not a quorum is present, may be adjourned from time to time by the vote of a majority of the voting members present in person, and notice need not be given of the adjourned meeting if the time and place thereof are announced at the meeting at which the adjournment is taken. At the adjourned meeting, the members may transact any business which might have been transacted at the original meeting. If after the adjournment, a new date or time is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each member who is entitled to vote at the meeting.

2.06 Action by written Ballot.

(a) Any action which may be taken at a meeting with the members, may be taken without a meeting if the Newport Beach Restaurant Association distributes a written ballot to every member entitled to vote on such matters. Such ballots shall set forth the proposed action, provide an opportunity to specify approval or disapproval of any proposal and provide a reasonable time within which to return the ballot.

(b) Approval by written ballot shall be valid only when the number of votes cast by ballot within the time period specified equals or exceeds the quorum required to be present at a meeting authorizing the action and the number of approvals equals or ex-

ceeds the number of votes that would be required to approve at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

(c) Unless so demanded or ordered by the Board of Directors, no vote need be by ballot.

2.07 Proxies.

(a) Right of Members. Any member entitled to vote may authorize another person or persons to vote with respect to such membership by filing a written, executed proxy with the Board.

(b) Revocability. A validly executed proxy shall continue in full force and effect until (a) revoked by the member executing it, before the vote is cast under that proxy (i) by a writing delivered to the corporation stating that the proxy is revoked, or (ii) by a subsequent proxy executed by that member and presented to the meeting, or (iii) as to any meeting, by that member's personal attendance and voting at the meeting.

2.08 Election of Directors

If there is a meeting of members to elect directors, any member present at the meeting in person or by proxy may place names in nomination.

ARTICLE III Directors

3.01 Powers.

The business and affairs of NEWPORT BEACH RESTAURANT ASSOCIATION, shall be governed by the Board of Directors (Board). The Board may exercise all of the powers of NEWPORT BEACH RESTAURANT ASSOCIATION, except such as are by law or these Bylaws conferred upon or reserved to the members. The Board shall keep full and fair accounts of its transactions.

3.02 Number of Directors.

(a) Voting Directors. The authorized number of directors of NEWPORT BEACH RESTAURANT ASSOCIATION shall be a minimum of five (5) and a maximum of twenty (25) elected directors. The exact number of directors shall be fixed, within those limits, by resolution of the Board, provided that the number of members on the Board shall not exceed, at any time, the number of existing members of the corporation.

(b) Ex-Officio Directors. The Board may designate certain community or governmental representatives as an ex-officio, non-voting member of the Board of Directors. An ex-officio director

shall not be counted in the total membership of the Board set forth in Section 3.02(a) of these Bylaws.

3.03 Election and Term of Office.

All directors shall be elected at each annual meeting however, if any directors are not elected at any annual meeting, they may be elected at any special members' meeting held for that purpose or by written ballot. Each director, whether elected at the annual meeting, a special meeting or by written ballot, shall hold office for two years, with 50% elected annually after the second year.

3.04 Filling Vacancies.

Except for a vacancy created by the removal of a director by the members, vacancies on the Board may be filled by a majority of the directors then in office, whether or not less than a quorum. The members may fill any vacancy not filled by the directors.

3.05 Place of Meetings.

Regular or special meetings of the Board shall be held at any place within the City of Newport Beach, County of Orange, State of California which has been designated by the Board.

3.06 Annual Meeting.

Immediately after each annual meeting of members, the Board shall hold a regular meeting for the purposes of organization, election of officers, and transaction of other business. notice of this meeting is not required.

3.07 Other Regular Meetings.

Regular meetings of the Board shall be held at such time as shall be determined by the Board. Such regular meetings may be held without notice provided they are held at such date and time as determined by the Board. Notice of change in the determination of the date or time shall be given to each director of the Board.

3.08 Special Meetings, Notice of Meetings.

(a) Authority to Call Special meetings of the Board for any purpose or purposes may be called at any time by the Chairman of the Board or by any two (2) directors.

(b) Notice Written notice of the date, place and time of special meetings shall be delivered personally to the directors or sent to each director by mail or facsimile machine, charges prepaid, addressed to him at his address as it is shown upon the records of NEWPORT BEACH RESTAURANT ASSOCIATION. If such notice is mailed, it shall be deposited in the United States mail at least

four (4) days prior to the time of the meeting, and if such notice is given personally or by telephone or facsimile machine, it shall be delivered at least 48 hours prior to the time of the meeting. Notice of a meeting need not be given to any director who signs a waiver of notice or written consent to holding the meeting or an approval of the minutes thereof, whether before or after the meeting.

3.09 Quorum.

A majority of the authorized number of directors shall be necessary to constitute a quorum for the transaction of business, except to adjourn as hereinafter provided. Every act or decision done or made by majority of the directors present at a meeting duly held, at which a quorum is present, shall be regarded as the act of the Board, unless a greater number is otherwise required by law or these Bylaws. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for such meeting, or such greater number as is required by law or these Bylaws.

3.10 Adjourned Meeting.

A majority of the directors present, whether or not a quorum, may adjourn any Board meeting to a stated day and hour. Notice of the date, time and place of holding an adjourned meeting need not be given to absent directors if the date, time and place are fixed at the meeting adjourned.

3.11 Action Without a Meeting.

Any action that the Board is required or permitted to take may be taken without a meeting if all directors consent in writing to the action. Such action by written consent shall have the same force and effect as any other validly approved action of the Board. All such consents shall be filed with the minutes of the proceedings of the Board.

3.12 Committees of the Board.

The Board may by resolution create one or more committees, to serve at the pleasure of the Board. The Board may adopt rules for the government of any committee, provided they are consistent with these Bylaws.

ARTICLE IV Officers

4.01 Officers.

The officers of NEWPORT BEACH RESTAURANT ASSOCIATION shall

consist of President (Chairman), Vice Chairman, Chief Financial Officer and Secretary. The corporation may have, at the Board's discretion, one or more additional officers as deemed necessary by the Board, each of whom shall hold office for such period, have such authority and perform such duties as are provided by the Board.

4.02 Election.

The officers of the corporation shall be chosen annually by the Board and shall serve at the pleasure of the Board. Each officer shall hold their office until they resign or are removed or otherwise disqualified to serve, or their successor is elected.

4.03 Resignation.

Any officer may resign at any time by giving written notice to the Board or Chairman of the Board.

4.04 President (Chairman of the Board).

If a Chairman of the Board is elected, he or she shall preside at meetings of the Board and shall exercise and perform such other powers and duties as the Board may assign from time to time. If there is no Executive Director, the Chairman shall also be the President and Chief Executive Officer and shall have the powers and duties of the Executive Director as prescribed by these Bylaws.

4.05 Vice Chairman.

The Vice Chairman, in the absence of the Chairman, shall perform all of the duties of the Chairman and when acting, shall have all the powers and be subject to all of the restrictions upon the Chairman. The Vice Chairman shall have such other powers and perform such other duties as may from time to time be prescribed by the Board of Directors or these bylaws.

4.06 Chief Financial Officer.

(a) Books of Account. The Chief Financial Officer shall keep and maintain, or cause to be kept and maintained, adequate and correct books and accounts of the corporation's properties and transactions. The Chief Financial Officer shall prepare and deliver, or cause to be prepared and delivered, to the members and directors such financial statements and reports as are required by law, by these Bylaws or by the Board. The books of account shall be open to inspection by any director at all reasonable times.

(b) Deposits and Disbursements. The Chief Financial Officer shall deposit, or cause to be deposited, all money and other valuables in the name and credit of the corporation with such deposito-

ries as the Board may designate, shall disburse the corporation's funds as the Board may order, shall render to the President, Chairman of the Board, if any, when requested, an account of all transactions as Chief Financial Officer and of the financial condition of the corporation, and shall have such other powers and perform such other duties as the Board or these Bylaws may prescribe.

4.07 Secretary.

(a) Book of Minutes. The Secretary shall keep or cause to be kept, at the corporation's principal office or such other place as the Board may direct, a book of minutes of all meetings, proceedings and actions of the Board, of committees of the Board and of members' meetings. The minutes of meetings shall include the time and place of the meeting, whether the meeting was annual, regular or special, and if special, how authorized, the notice given, and the names of those present.

(b) Membership Records. The Secretary shall keep or cause to be kept, at the corporation's principal office or at a place determined by resolution of the Board, a record of the corporation's members, showing each member's name, address and status of membership.

(c) Notices and Other Duties The Secretary shall give, or cause to be given, notice of all meetings of members, of the Board and of committees of the Board required by these Bylaws to be given and shall have such other powers and perform such other duties as the Board or these Bylaws may prescribe.

ARTICLE V Amendments

5.01 Any member may make an amendment proposal in writing of the Board of Directors, who shall have the responsibility of evaluating the merit of such proposals. All amendment proposals shall then be presented with recommendations to the voting membership at the next scheduled meeting. Amendments to the Bylaws of NEWPORT BEACH RESTAURANT ASSOCIATION shall require the affirmative vote of a simple majority of the voting members present and voting.

ARTICLE XI. Indemnification of Officers, Employees and Other Agents

6.01. For the purpose of this Article:

(a) "agent" means any person who is or was a director, officer, employee, or other agent of this corporation, or is or was serving at the request of this corporation as a director, officer, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, or other enterprise, or was a director, officer, employee, or agent of a foreign or domestic

corporation that was a predecessor corporation of this corporation or of another enterprise at the request of the predecessor corporation.

(b) "proceeding" means any threatened, pending, or completed action or proceeding, whether civil, criminal, administrative, or investigative; and

(c) "expenses" includes, without limitation, all attorneys' fees, costs, and any other expenses incurred in the defense of any claims or proceedings against an agent by reason of his position or relationship as agent and all attorneys' fees, costs, and other expenses incurred in establishing a right to indemnification under this Article.

6.02. To the extent that an agent of this corporation has been successful on the merits in the defense of any proceeding referred to in this Article, or in the defense of any claim, issue, or matter therein, the agent shall be indemnified against expenses actually and reasonably incurred by the agent in connection with the claim. If an agent either settles any such claim or sustains a judgment rendered against him, then the provisions of Section 6.03 through 6.05 shall determine whether the agent is entitled to indemnification.

6.03. Subject to the required findings to be made pursuant to Section 6.05, below, this corporation shall indemnify any person who was or is a party, or is threatened to be made a party, to any proceeding other than action brought by or on behalf of this corporation, or by an officer, director, or person granted related status by the Attorney General, or by the Attorney General on the ground that the defendant director was or is engaging in self dealing within the meaning of California Corporations Code, or by the Attorney General or a person granted related status by the Attorney General for any breach of duty relating to assets held in charitable trust, by reason of the fact that such person is or was an agent of this corporation, for all expenses, judgments, fines, settlements, and other amounts actually and reasonably incurred in connection with the proceeding.

6.04. (a) Claims Settled Out of Court: If any agent settles or otherwise disposes of a threatened or pending action brought by or on behalf of this corporation, with or without court approval, the agent shall receive no indemnification for either amounts paid pursuant to the terms of the settlement or other disposition or for any expenses incurred in defending against the proceeding, unless such settlement is the act of the Board.

(b) Claims and Suits Awarded Against Agent: This corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action brought by or on behalf of this corporation by reason of the fact

that the person is or was an agent of this corporation, for all the expenses actually and reasonably incurred in connection with the defense of that action, provided that both of the following are met:

i) The determination of good faith conduct required by Section 6.05, below, must be made in the manner provided for in that section; and

ii) Upon application, the court in which the action was brought must determine that, in view of all of the circumstances of all the circumstances of the case, the agent should be entitled to indemnify for the expense incurred. If the agent is found to be so entitled, the court shall determine the appropriate amount of expenses to be reimbursed.

6.05. The indemnification granted to an agent in Section 6.03 and 6.04 above is conditioned on the following:

(a) Required Standard of Conduct: The agent seeking reimbursement must be found, in the manner provided below, that he acted in good faith, in a manner he believed to be in the best interest of this corporation, and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use in similar circumstances. The termination of any proceeding by judgment, order, settlement, conviction, or on a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith or in a manner in which he reasonably believed to be in the best interest of this corporation or that he had reasonable cause to believe that his conduct was unlawful. In the case of a criminal proceeding, the person must have had no reasonable cause to believe that his conduct was unlawful.

(b) Manner of Determination of Good Faith Conduct: The determination that the agent did act in a manner complying with Paragraph (a) above shall be made by:

i) the board of directors by a majority vote of a quorum consisting of directors who are not parties to the proceeding;

ii) the court in which the proceeding is or was pending. Such determination may be made on application brought by this corporation or the agent or the attorney of other person rendering a defense to the agent, whether or not the application by the agent, attorney, or other person is opposed by this corporation.

6.06. No indemnification or advance shall be made under this Article, except as provided in Sections 6.02 or 6.05 (b)(ii) in any circumstances when it appears:

(a) That the indemnification or advance would be inconsistent with a provision of the articles, a resolution of the members, or an agreement in effect at the time of the accrual of the alleged cause of action asserted in the proceeding in which the expenses were incurred or other amounts were paid, which prohibits or otherwise limits indemnification; or

(b) That the indemnification would be inconsistent with the any condition expressly imposed by a court in approving a settlement.

6.07. Expenses incurred in defending any proceeding may be advanced by this corporation before the final disposition of the proceeding on receipt of an undertaking by or on behalf of the agent to repay the amount of the advance unless it is determined ultimately that the agent is entitled to be indemnified as authorized in this Article.

6.08. Nothing contained in this Article shall effect any right to indemnification to which persons other than directors and officers of this corporation, or any subsidiary hereof, may be entitled by contract or otherwise.

6.09. The board of directors may adopt a resolution authorizing the purchase and maintenance of insurance on behalf of any agent of the corporation against any liability asserted against or incurred by the agent in such capacity or arising out of the agent's status as such, whether or not this corporation would have the power to indemnify the agent against that liability under the provisions of this section.

ARTICLE VII Miscellaneous

6.01 Annual Report.

The Board shall cause an annual report to be sent to the members and directors within 120 days after the end of the corporation's fiscal year.

6.02 Checks and Drafts.

All checks, drafts or other orders for payment of money, notes or other evidence of indebtedness in excess of \$500.00 issued in the name of the NEWPORT BEACH RESTAURANT ASSOCIATION shall be signed by the Chief Financial Officer and one other officer, depending upon availability.

6.03 Rules and Regulations.

Each member of NEWPORT BEACH RESTAURANT ASSOCIATION shall observe such reasonable rules and regulations as the same are

established from time to time by the Board and delivered or presented to the members.

CERTIFICATION

I certify that I am the duly elected and acting Secretary of NEWPORT BEACH RESTAURANT ASSOCIATION, a Mutual Benefit Non Profit Corporation, that the above Bylaws, consisting of 12 pages, are the Bylaws of this corporation as adopted by the Board of Directors on February 16, 1996, and that they have not been modified or amended since that date.

Executed on February 16, 1996, at Newport Beach, California.

Calleen Atkinson
Secretary

Acting Secretary